

**§ 1.162 Applicant, oath or declaration.**

The applicant for a plant patent must be the person who has invented or discovered and asexually reproduced the new and distinct variety of plant for which a patent is sought (or as provided in §§ 1.42, 1.43, and 1.47). The oath or declaration required of the applicant, in addition to the averments required by § 1.63, must state that he or she has asexually reproduced the plant. Where the plant is a newly found plant the oath or declaration must also state that it was found in a cultivated area.

(35 U.S.C. 6, Pub. L. 97-247)

[48 FR 2713, Jan. 20, 1983]

**§ 1.163 Specification and arrangement of application elements in a plant application.**

(a) The specification must contain as full and complete a disclosure as possible of the plant and the characteristics thereof that distinguish the same over related known varieties, and its antecedents, and must particularly point out where and in what manner the variety of plant has been asexually reproduced. For a newly found plant, the specification must particularly point out the location and character of the area where the plant was discovered.

(b) The elements of the plant application, if applicable, should appear in the following order:

(1) Plant application transmittal form.

(2) Fee transmittal form.

(3) Application data sheet (see § 1.76).

(4) Specification.

(5) Drawings (in duplicate).

(6) Executed oath or declaration (§ 1.162).

(c) The specification should include the following sections in order:

(1) Title of the invention, which may include an introductory portion stating the name, citizenship, and residence of the applicant.

(2) Cross-reference to related applications (unless included in the application data sheet).

(3) Statement regarding federally sponsored research or development.

(4) Latin name of the genus and species of the plant claimed.

(5) Variety denomination.

(6) Background of the invention.

(7) Brief summary of the invention.

(8) Brief description of the drawing.

(9) Detailed botanical description.

(10) A single claim.

(11) Abstract of the disclosure.

(d) The text of the specification or sections defined in paragraph (c) of this section, if applicable, should be preceded by a section heading in upper case, without underlining or bold type.

[65 FR 54675, Sept. 8, 2000]

**§ 1.164 Claim.**

The claim shall be in formal terms to the new and distinct variety of the specified plant as described and illustrated, and may also recite the principal distinguishing characteristics. More than one claim is not permitted.

(35 U.S.C. 162)

**§ 1.165 Plant drawings.**

(a) Plant patent drawings should be artistically and competently executed and must comply with the requirements of § 1.84. View numbers and reference characters need not be employed unless required by the examiner. The drawing must disclose all the distinctive characteristics of the plant capable of visual representation.

(b) The drawings may be in color. The drawing must be in color if color is a distinguishing characteristic of the new variety. Two copies of color drawings or photographs and a black and white photocopy that accurately depicts, to the extent possible, the subject matter shown in the color drawing or photograph must be submitted.

[58 FR 38726, July 20, 1993, as amended at 65 FR 57058, Sept. 20, 2000]

**§ 1.166 Specimens.**

The applicant may be required to furnish specimens of the plant, or its flower or fruit, in a quantity and at a time in its stage of growth as may be designated, for study and inspection. Such specimens, properly packed, must be forwarded in conformity with instructions furnished to the applicant. When it is not possible to forward such specimens, plants must be made available for official inspection where grown.

(35 U.S.C. 114, 161)